

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2006-7
)	
DIRECTOR, DEPARTMENT OF LABOR)	ORDER NO. 193
AND INDUSTRIAL RELATIONS,)	
)	PRETRIAL ORDER
Complainant,)	
)	
vs.)	
)	
UPS CARTAGE SERVICES, INC.,)	
)	
Respondent.)	
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PRETRIAL ORDER

Pursuant to the representations of counsel for the parties at the initial conference held by the Hawaii Labor Relations Board (Board) on May 25, 2006, IT IS HEREBY ORDERED THAT:

1. The issues to be determined as to Citation 1, Item 1 - 29 CFR 1910.304(f)(4) are:
 - (a) Whether Respondent violated 29 CFR 1910.304(f)(4) as described in Citation 1, Item 1 issued on April 10, 2006?
 - (i) whether the cited standard applies;
 - (ii) whether there was a failure to comply with the cited standard;
 - (iii) whether the employer knew or should have known of the condition with the exercise of due diligence
 - (b) Whether the characterization of the violation as "Serious" is appropriate? If not, what is the appropriate characterization?
 - (c) Whether the tests performed by the DLIR in order to establish the violation were appropriate?

2. Discovery and other deadlines are:

Identification of unnamed and live
witnesses and exchange of expert reports July 3, 2006

Discovery cutoff July 27, 2006

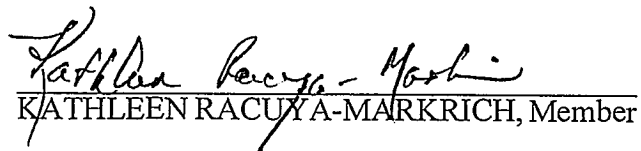
3. The Board will conduct a trial in this matter on September 19, 2006 at 9:30 a.m. in the Board's hearing room, Room 434, 830 Punchbowl Street, Honolulu, Hawaii.
4. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, June 2, 2006.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


EMORY J. SPRINGER, Member


KATHLEEN RACUYA-MARKRICH, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees at least five working days prior to the trial date.

Copies sent to:

Herbert B.K. Lau, Deputy Attorney General
Jeffrey S. Portnoy, Esq.